

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

OTTER PRODUCTS, LLC,

Plaintiff,

v.

BH ELECTRONICS OF NY, INC.; and
BAROUKH BARAKAT both doing business as
“BHONESTOPSHOP;” and “JOHN DOES” 1-5;

Defendants.

CASE NO. 1:20-cv-04869 (AKH)

**PERMANENT INJUNCTION
UPON CONSENT**

Plaintiff Otter Products, LLC (“Plaintiff”) and defendant BH Electronics of NY, Inc. and defendant Baroukh Barakat both doing business as “bhonestopshop” (hereinafter collectively referred to as “Defendants”), having agreed that a Permanent Injunction Upon Consent (“Permanent Injunction”) should be entered between them and good cause appearing therefore:

1. Plaintiff asserted this action for trademark counterfeiting and infringement, 15 U.S.C. § 1114; trademark dilution, 15 U.S.C. § 1125(c); unfair competition, false designation of origin, and false description, 15 U.S.C. § 1125(a); and unfair and deceptive business practices, N.Y. Gen. Bus. L. § 349. The Court further has continuing jurisdiction to enforce the terms and provision of this Permanent Injunction.


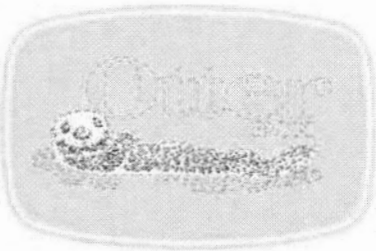
2. Plaintiff Otter Products is a limited liability company duly organized and existing under the laws of the State of Colorado and having its principal place of business located at 209 S. Meldrum Street, Fort Collins, CO 80521.

3. Defendant BH Electronics of NY, Inc. is a New York corporation with its principal place of business located at 46 W. Fordham Road, Bronx, NY 10468.

4. Defendant Baroukh Barakat is an individual that resides at 2136 E. 9th Street, Brooklyn, NY 11223.

5. Plaintiff is the owner of various trademarks registered with the United States Patent and Trademark Office (“USPTO”). Such trademarks include, but are not limited to the following, among others:

Trademark	USPTO Registration Number	Registration Date	Goods
OTTER BOX	2287619	10/19/1999	IC 028. US 022 023 038 050. G & S: non-metal, water-tight containers for outdoors recreational use.
OTTER BOX	3788535	05/11/2010	IC 009. US 021 023 026 036 038. G & S: Protective cases for handheld electronic devices, namely, portable music players, portable video players, cell phones and computers; specially adapted protective carrying cases for computers.
OTTERBOX	4509483	04/08/2014	IC 042. US 100 101. G & S: Providing a website featuring news and commentary in the field of mobile technology.
OTTERBOX	4602221	09/09/2014	IC 009. US 021 023 026 036 038. G & S: Protective covers and cases for handheld electronic devices, namely, cell phones, portable media players, tablets, personal digital assistants, e-book readers, and computers; protective covers and cases for computers.

OTTERBOX	4451386	12/17/2013	IC 035. US 100 101 102. G & S: On-line retail store services featuring protective covers and cases for personal electronic devices, namely, cell phones, portable media players, tablets, e-book readers, and computers.
DEFENDER SERIES	4616874	10/07/2014	IC 009. US 021 023 026 036 038. G & S: Protective covers and cases for personal electronic devices, namely, cell phones.
DEFENDER SERIES	3623789	05/19/2009	IC 009. US 021 023 026 036 038. G & S: Protective cases for interactive, handheld electronic devices, namely, portable music players, portable video players and tablet computers.
	3791318	05/18/2010	IC 009. US 021 023 026 036 038. G & S: Protective cases for handheld electronic devices, namely, portable music players, portable video players, cell phones and computers; specially adapted protective carrying cases for computers.
	4293603	02/19/2013	IC 009. US 021 023 026 036 038. G & S: Protective cases for handheld electronic devices, namely, portable music players, portable video players, cell phones and computers; specially adapted protective carrying cases for computers.

COMMUTER	3791317	05/18/2010	IC 009. US 021 023 026 036 038. G & S: Protective cases for handheld electronic devices, namely, portable music players, portable video players, cell phones and computers; specially adapted protective carrying cases for computers.
COMMUTER SERIES	3963182	05/17/2011	IC 009. US 021 023 026 036 038. G & S: Protective cases for handheld electronic devices, namely, multifunctional mobile phones, portable music players, portable video players and computers.

(hereinafter collectively referred to as the “Otter Products Registered Trademarks”).

6. Defendants agree that the jurisdiction of this Court is retained for the purpose of making any further orders necessary or proper for the construction, implementation, or modification of this Permanent Injunction, the enforcement and the punishment of any violations thereof.

IT IS ORDERED, ~~ADJUDGED~~ AND DECREED

7. The Permanent Injunction shall be binding upon and shall inure to the benefit of the parties and their respective heirs, successors and assigns, and acquiring companies.

8. Defendants, their agents, servants, employees, attorneys, and all persons acting in concert and participation with him, and his successors and assigns, jointly and severally be and hereby are permanently restrained and enjoined from:

- a) using any counterfeit or infringement of the Otter Products Registered Trademarks to identify any goods not authorized by Plaintiff;
- b) counterfeiting or infringing the Otter Products Registered Trademarks by importing,

manufacturing, distributing, selling, offering for sale, advertising, promoting, displaying any products bearing any simulation, reproduction, counterfeit, or copy of the Otter Products Registered Trademarks;

c) using any simulation, reproduction, counterfeit, or copy of the Otter Products Registered Trademarks in connection with the importation, promotion, advertisement, display, sale, offering for sale, manufacture, production, circulation or distribution of any unauthorized products in such fashion as to relate or connect, or tend to relate or connect, such products in any way to Plaintiff, or to any goods sold, manufactured, sponsored or approved by, or connected with Plaintiff,

d) making any statement or representation whatsoever, or using any false designation of origin or false description, or performing any act, which can or is likely to lead the trade or public, or individual members thereof, to believe that any services provided, products manufactured, distributed, sold or offered for sale, or rented by Defendants are in any way associated or connected with Plaintiff; and

e) engaging in any other conduct constituting an infringement of the Otter Products Registered Trademarks, of Plaintiff's rights in, or to use or to exploit, said trademark, or constituting any weakening of Plaintiff's name, reputation and goodwill.

9. It is further ORDERED that in the event that Defendants are ever found by a court of competent jurisdiction to be in violation of this Permanent Injunction the parties agree that (a) Plaintiff will be entitled to all normal relief which it may request from the Court; and (b) Plaintiff will be entitled to recover any and all future and additional damages, fees, and costs incurred by Plaintiff due to Defendants' violation of this Permanent Injunction, and judgment shall be entered against Defendants in that full amount.

10. That any act by Defendants in violation of the terms or conditions of this Permanent Injunction may be considered and prosecuted as contempt of this Court.

11. That jurisdiction of this Court is retained for the purpose of making any further orders necessary or proper for the construction, implementation, or modification of this Permanent Injunction, the enforcement thereof, and the punishment of any violations thereof.

12. This Permanent Injunction shall be deemed served upon the Defendants at the time of the execution by the Court.

13. This action against all remaining defendants is dismissed without prejudice.

14. This action against Defendants is hereby dismissed with prejudice.

CONSENTED TO BY THE PARTIES:

The undersigned hereby consent to the entry of the Permanent Injunction in the form annexed hereto or in such other form as the Court may approve.

Dated: 26 October, 2020

OTTER PRODUCTS, LLC

By: K M. Sullivan

Name: Kevin M Sullivan
Title: General Counsel

Dated: 10/26, 2020

BH ELECTRONICS OF NY, INC.

By: Baroukh Barakat

Name: Baroukh Barakat
Title: owner

Dated: 10/26, 2020

BAROUKH BARAKAT

Baroukh Barakat

SO ORDERED: 11-12, 2020

[Signature]
United States District Court Judge